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Held at the Palais des Nations, Geneva,
on Monday, 20 November 1989, at 3 p.m.

Chairman: Mr. VOYAME

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Initial report of Cameroon (CAT/C/5/Add.16) (continued)

1. At the invitation of the Chairman, Mr. Moche Fayeu and Mr. Ndzengue (Cameroon) took seats at the Committee table.

2. Mr. MOCHE FAYEU (Cameroon), replying to a question by Mr. Burns regarding the manner in which judges were appointed and removed from office in Cameroon, said that powers of appointment and punishment were vested in the President of the Republic. With regard to appointments and sanctions relating to career judges, the Higher Council of the Judiciary submitted its proposals to the Head of State, who usually approved them. The Higher Council of the Judiciary consisted of the President of the Republic, the Minister of Justice, three career judges, three deputies of the National Assembly and one distinguished person especially designated by the Head of State.

3. As far as other public officials were concerned, the Disciplinary Council advised on any penalties to be imposed but had no functions with regard to appointments.

4. Members of the police and armed forces who ill-treated or committed acts of violence against arrested persons were subject to disciplinary sanctions ordered by their commanding officer.

5. With regard to the death penalty, he explained that, in accordance with the Penal Code of Cameroon, perpetrators of certain offences were liable to capital punishment. That was the case in particular of persons guilty of manslaughter, murder or aggravated theft, i.e. theft with house-breaking or armed robbery. He regretted that he was unable to supply immediately the precise statistics requested of him but he undertook to communicate them later to the members of the Committee. He wished to stress that a person sentenced to capital punishment had the opportunity to exercise all procedural remedies, including appeal and application for cassation, and that he could be pardoned by the Head of State; capital punishment was applied only after all the procedural remedies had been exhausted. In addition, it often happened that the Head of State exercised his prerogative of pardon to commute a death sentence into a term of imprisonment.

6. With regard to the conditions of detention mentioned in the report of Amnesty International, he wished to stress that the Government of Cameroon was not insensitive to the situation in the central prisons of Yaoundé and Douala. Inmates in those two prisons were indeed suffering from the dilapidation of the premises, the prison overpopulation and overcrowding, as well as poor sanitary conditions and inadequate food. In the course of the four past years, efforts had been made to improve sanitary conditions in those institutions and the food rations of the detainees had been increased. The problem of prison overpopulation, however, had not yet been solved.

7. A number of senior officials of the Ministry of Justice and the Ministry of Territorial Administration, together with the competent Public Prosecutor, had recently visited the central prison of Yaoundé to evaluate the situation and had agreed on various measures intended to remedy the growth of the prison population. They had drawn attention to the fact that preventive custody was

contrary to the principle whereby everyone accused of a criminal offence had the right to be presumed innocent until proved guilty; that form of detention had therefore to be reserved for exceptional cases. Following their visit to the places of detention, those senior officials had taken certain measures with immediate effect. They had thus decided that when preventive detention was not indispensable for the needs of the investigation, persons suspected of minor offences had to be returned to their families or provisionally released.

8. In order to relieve the congestion in the prisons of Yaoundé and Douala as speedily as possible, it had been decided that, to the extent feasible, certain prisoners sentenced to long terms of imprisonment would be transferred to other prisons. All judges had been invited to carry out regular reviews of cases of preventive detention and to reorganize the system so that investigation was entrusted to experienced and diligent judges. Those first measures had begun to bear fruit and the Government of Cameroon was convinced that a solution would soon be found to the problem of prison overpopulation.

9. In reply to the members who had asked whether there were any persons imprisoned for political reasons in Cameroon, he said that that had indeed been the case since the unsuccessful attempt at a coup d'état in 1984 but that all the political prisoners had been sentenced by competent courts which had pronounced on their imprisonment.

10. With regard to paragraph 33 of the report, which stated that the civil action available to a torture victim varied according to whether the torturer was a senior or junior police officer, he indicated that, where a senior officer was involved, the victim could only bring a civil action by initiating an action for damages against a judge. That complex procedure, however, was only available in cases of "malice, fraud, extortion or gross professional misconduct" and needed the prior authorization of the President of the Court of Appeal. In practice, that procedure was rarely resorted to, since the victims preferred to initiate simpler procedures, such as that of direct citation or filing a claim for damages with the investigating judge to obtain redress for the injury suffered.

11. With regard to the Special Criminal Court, he explained that it had been instituted by the Act of 9 November 1962 which had conferred upon it a well-defined jurisdiction: it was called upon to try persons guilty of offences against publicly-owned property or of misappropriation of public funds. That Court had been abolished on the promulgation of the 1965 Penal Code, which had converted the offences attributed to it into ordinary offences within the purview of the High Court.

12. With regard to the training of police officers, he explained that no specific instruction was given on the prevention of acts of torture. Nevertheless, the officials concerned received an adequate legal training and attended courses in penal law and criminal procedure. Training centres had been especially established for judges, police officers, gendarmes and prison guards. In those establishments, courses in penal law and criminal procedure were given by high-ranking judges. Those training centres had a very important role to play in the prevention of acts of torture because of the training and education which they imparted to judges, policemen, armed forces personnel, gendarmes and prison guards.

13. In reply to a question by Mr. Gil Lavedra, he explained that the principle of the primacy of the rules of international law and the provisions of international treaties over the provisions of internal law was set forth in article 2 of the Penal Code of Cameroon. That principle of course applied to the Convention against Torture. There was no specific legislation on the prevention of acts of torture because the provisions of the Convention formed part of the internal law of Cameroon.

14. With regard to paragraph 10 of the report, he confirmed that a torture victim had two remedies available: either to institute criminal proceedings or to introduce civil proceedings in order to obtain redress for the injury suffered.

15. With regard to paragraph 11, he confirmed that the non-observance of certain guarantees led to the proceedings being declared null and void; that was in particular true of the rules of evidence, under which no evidence obtained by means of torture could be accepted as proof.

16. With regard to paragraphs 18-20, he said that Cameroonian criminal law punished acts of torture, attempts to commit acts of torture, complicity in acts of torture and participation in such acts. Several offences could be deemed to constitute acts of torture, such as the administration of substances harmful to health, the neglect of helpless persons (the aged or minors), the withholding of care to the extent of jeopardizing the health of a defenceless person, etc. The Penal Code assimilated to acts of torture such offences in particular as murder, serious bodily injury resulting in permanent disablement - entirely or in part - of a limb, an organ or a sense, lethal blows, violence inflicted upon children, and assault resulting in grave or ordinary injury.

17. With regard to paragraph 14 and the limitation of the time of speech of a lawyer, he observed that the president of a court or tribunal was responsible for the proper conduct of the hearing. It was therefore natural that he should be able to interrupt a lawyer who abused the freedom of speech granted to him.

18. Concerning the provisions relating to arrest and police custody, the only authorities empowered to arrest and detain a person were on the one hand duly sworn police inspectors (the duration of custody was 24 hours, which could be extended three times on express authorization of the Public Prosecutor of the Republic) and on the other hand judges, who could issue a warrant of commitment. In all cases, custody was under the control of the competent Public Prosecutor.

19. With regard to judgement No. 4 of 7 October 1969 mentioned in paragraph 16 of the report, he explained that it was a judicial ruling adopted by the Supreme Court but that there was no express legal provision laying down that a person could not invoke an order from a superior in order to exonerate himself from responsibility for an act of torture.

20. With regard to paragraph 17, he explained that the conventions on co-operation in regard to judicial assistance which Cameroon had concluded with a number of African countries in 1982 and the convention on judicial matters concluded with France contained provisions on extradition procedures. Nevertheless, in accordance with Cameroonian law, no foreign national could be

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compelled to return to any country, including his own. In no case had any person been extradited to a country if there was a well-founded fear of his being tortured there.

21. In reply to Mr. Khitrin's question on the situation regarding the abolition of slavery and trafficking in persons, he said that the Penal Code of Cameroon punished persons guilty of those offences with a penalty of imprisonment for 15 to 20 years if the victims were of full age and 5 to 10 years if they were minors.

22. In response to Mr. Mikhailov, he explained that the African Charter on Human and Peoples' Rights did not contain any provisions relating to acts of torture. However, in accordance with the principle of the supremacy of the rules of international law, that Charter had to be construed in the more general framework of the international conventions relating to human rights.

23. In reply to a question by a member of the Committee regarding the summons by a bailiff mentioned in paragraph 10 of the report, he explained that it was a procedural step which enabled an injured party to refer a matter directly to the competent court in order to secure the application of penal sanctions against the perpetrator of the offence and redress for the injury suffered. Statistics on the subject would be communicated later.

24. In reply to Mr. Voyame, he indicated that the Penal Code did not contain any specific provisions punishing acts of torture as such. However, as had already been stated, the Convention against Torture formed an integral part of Cameroon's internal law.

25. On the question of universal jurisdiction, he explained that Cameroonian courts were empowered to deal with all offences contravening the Convention against Torture, pursuant to articles 7 and 10 of the Penal Code, quoted in paragraphs 21 and 22 of the report respectively, which met the concerns expressed in articles 5, 6 and 7 of the Convention against Torture.

26. As to the responsibility of the State for acts of torture committed by officials, he referred to an Ordinance of 26 August 1972, article 9, paragraph 1, of which specified that the Supreme Court of Cameroon dealt with all administrative litigation against the State, public bodies or public institutions; paragraph 3 of the same article specified that the ordinary courts dealt with all other lawsuits or litigation, even if the public bodies mentioned were involved. The liability of the legal entity concerned automatically replaced that of its agent who had caused an injury to a third party in the exercise of his functions. Accordingly, the victim of an act of torture committed by an official could claim redress from the State for the injury sustained.

27. He hoped that the replies which he had given to the questions put to him, together with the supplementary report, would dispel any doubts which subsisted in the minds of the members of the Committee.

28. The CHAIRMAN thanked the head of the Cameroonian delegation for the replies given; for his part, he felt that there were still a few points needing to be clarified. He had doubts as to whether the supplementary report to be submitted would answer the questions which had not yet received an altogether satisfactory reply.

29. Mr. BURNS expressed his appreciation to the Cameroonian delegation. He noted with satisfaction the measures that had been taken to improve detention conditions in the prisons. In connection with the replies given, he had been surprised to learn that in the matter of slavery and trafficking in persons the Penal Code laid down a penalty of imprisonment for 15 to 20 years in the case of adults but 5 to 10 years in that of minors. Moreover, he would like to have information concerning two points on which no direct reply had been given: first, whether administrative detention was practised and, if so, on what legal basis and, secondly, whether detention in solitary confinement existed and, if so, what were the legal provisions governing it.

30. Mr. KHITRIN noted that the Cameroonian delegation had endeavoured to supply the additional information requested by the members of the Committee but that certain questions nevertheless remained unanswered. For example, it should be possible to provide the Committee with fuller particulars of the application in Cameroonian prisons of the Standard Minimum Rules for the Treatment of Prisoners, the conditions of detention in solitary confinement and preventive detention, as well as the number of suicides committed in prison. Consequently, it would perhaps be advisable, as the Cameroonian delegation had proposed, for the replies to the questions put by the members of the Committee to appear in a supplementary report to be submitted later.

31. Mr. MOCHE FAYEU (Cameroon) said that the Government of his country would have no objection to answering in writing the questions to which it had not been possible to reply in full at the current session of the Committee.

32. Mr. GIL LAVEDRA agreed with Mr. Khitrin that the best means of ensuring that all the questions put by the members of the Committee were answered would be for the Cameroonian Government to furnish a supplementary report. For his part, he would like clarification on two points. First, with regard to the independence of the judiciary, which was one of the essential safeguards of personal rights, the Cameroonian delegation had indicated that there existed in Cameroon a Council of the Judiciary which submitted to the President of the Republic proposals concerning the appointment of judges. On that point, he would like to know whether the President could disregard the proposals of the Council and, if so, how the decisions were taken. In addition, were there other safeguards relating, in particular, to the irremovability of judges?

33. Secondly, since the provisions of the Convention were incorporated into Cameroonian internal law, the provisions of articles 7 and 10 of the Penal Code of Cameroon should be amended because they were not consistent with the obligations imposed upon States parties by the Convention against Torture. In addition, if questions relating to extradition were governed solely by articles 7 and 10 of the Penal Code and not by the Convention, it was difficult to see the meaning of the incorporation of the Convention into the internal law of Cameroon. On the other hand, if all the provisions of the Convention were being fully applied in Cameroon, a great many questions which had been raised in connection with the report of that country were pointless.

34. Mr. SORENSEN also thanked the Cameroonian delegation for its precise answers to the questions put to it, in particular with regard to conditions of detention. He noted, however, that although the Cameroonian delegation had referred to the training of judges and police officers in particular, nothing had been said about the training of medical personnel and health workers serving in the prisons. He would like further details on that subject, preferably in a supplementary report.

35. The CHAIRMAN noted that the Cameroonian delegation had not commented on the points raised in the Amnesty International report concerning torture in Cameroon. Certainly, the Committee was not taking a stand on that matter, but it would nevertheless like to hear the comments of the Cameroonian delegation on the subject.

36. If, as the Cameroonian delegation had indicated, international law took precedence over internal law and the Convention formed part of national legislation, the provisions of the Convention could be applied directly. The provisions of the Convention, however, did not lay down any penalties and additional provisions providing for the sanctions to be applied in respect of acts harmful to the physical or mental integrity of individuals had therefore necessarily to be introduced into national penal legislation. Could the Cameroonian delegation indicate the provisions of the Penal Code of Cameroon which made it possible to apply the Convention in regard to the suppression of torture?

37. In its supplementary report, the Cameroonian Government could perhaps furnish statistics concerning in particular the number of cases in which violence had been used, the number of cases which had given rise to sanctions and what those sanctions were.

38. Article 7 of the Cameroonian Penal Code dealt with acts committed on the territory of the Republic, including its territorial waters and the air space above that territory and those waters, but said nothing about the principle of universal jurisdiction embodied in article 5 (2) of the Convention. Moreover, the report of Cameroon did not indicate the legislative provisions which served to implement the principle of aut dedere aut judicare set forth in article 7 (1) of the Convention. Furthermore, the principle of the greatest possible measure of mutual judicial assistance, embodied in article 9 of the Convention, did not appear to be fully observed in Cameroonian law, which was based on agreements for judicial co-operation whereas, in accordance with the Convention, assistance was not contingent upon the existence of such agreements but was compulsory. Lastly, the Cameroonian Government could perhaps give some particulars of the measures taken to ensure respect for the principle stated in article 15 of the Convention according to which statements obtained by means of torture could not be invoked as evidence.

39. Referring to rule 67 of the Committee's rules of procedure, he said that, in view of the large number of questions raised, it would no doubt be preferable and more rational for the Cameroonian Government to furnish a supplementary report containing the information of greater interest to the Committee. The Cameroonian delegation could perhaps indicate the approximate date at which an additional report could be submitted.

40. Mr. NDZENGUE (Cameroon) explained that the additional report, which had been prepared following a recommendation by the Committee, was already available and that, if technical problems had not arisen, it would have been considered instead of the report circulated under symbol CAT/C/5/Add.16.

41. The CHAIRMAN said that the additional report to which Mr. Ndzengue had referred had in fact been handed to the Secretary of the Committee a few days previously but would have to be further supplemented in order to answer the questions raised and supply the statistics requested by members of the Committee at the current session.

42. Mr. MIKHAILOV thanked the Cameroonian delegation for its concrete and detailed replies to numerous questions. He proposed, with a view to continuing the consideration of the report of Cameroon, that the Government should give particulars on a number of points, especially on the compatibility of articles 2 to 16 of the Convention with the provisions of internal law, on the possibilities of restricting penalties, in particular capital punishment and life imprisonment, on the possible simplification of administrative procedures in penal matters and on the regulations governing redress for the injury sustained by torture victims.

43. Mr. GIL LAVEDRA said that it would make more sense at the present stage simply to request the Cameroonian Government to submit a new additional report containing the information requested by the members of the Committee at the current session.

44. Mr. SORENSEN and Mr. KHITRIN associated themselves with the previous speaker and endorsed the proposal by the Chairman under rule 67 (2) of the Committee's rules of procedure, a proposal which seemed to them to be reasonable.

45. The CHAIRMAN said that Mr. Mikhailov's proposals were very interesting but somewhat premature because they touched on questions of substance to which it was difficult to give an immediate reply. The Committee could however revert to them when it came to consider the additional report.

46. Mr. MIKHAILOV said that in the circumstances he would withdraw his proposals, hoping that they would be taken up again when the additional report by Cameroon was submitted.

47. The CHAIRMAN asked the Cameroonian delegation when the Committee could expect to receive the additional report.

48. Mr. NDZENGUE (Cameroon) said that since the additional report had already been prepared, and since it would only be necessary to insert in it the replies to the questions raised, it should be possible to submit it shortly.

49. The CHAIRMAN suggested that 30 June 1990 should be set as the deadline for the filing of the new additional report by Cameroon, so as to give the Cameroonian Government ample time to reply to the Committee's questions. If there was no objection, he would take it that the Committee approved that suggestion.

50. It was so decided.

51. The CHAIRMAN thanked the members of the Cameroonian delegation for all the information they had furnished and wished them a pleasant journey home.

52. Mr. Moche Fayeu and Mr. Ndzengue (Cameroon) withdrew.

The meeting was suspended at 5 p.m. and resumed at 5.05 p.m.

Initial report of Hungary (CAT/C/5/Add.9) (continued)

53. At the invitation of the Chairman, Mrs. Hargitai, Mr. Göndör and Mr. Gyuris (Hungary) took seats at the Committee table.

54. Mrs. HARGITAI (Hungary), replying to questions put by members of the Committee concerning the status in the Hungarian legal system of international instruments ratified by Hungary and in particular the United Nations Convention against Torture, said that in accordance with legal rules going back to 1982, international instruments which set forth rights and obligations for individuals and legal entities were promulgated by law, by legislative decree, by decree of the Council of Ministers or by ministerial decree. The United Nations Convention against Torture had been promulgated by legislative decree in 1988 and had thereby been incorporated into internal law; it could therefore be invoked directly before the courts. Internal legislation had to conform with the provisions of the international instruments in question and any provisions that did not so conform had to be appropriately amended. Moreover, since the Convention formed an integral part of Hungarian internal law, the definition of torture contained therein was the one applied in the Hungarian legal system. The acts deemed to be acts of torture within the meaning of that definition were enumerated in chapter XII of the Hungarian Penal Code, in particular in its title I which dealt with offences against the life, physical integrity and health of persons, in title II relating to offences against human freedom and dignity (in particular articles 174 and 175) and in title IV which dealt with offences committed by officials (in particular articles 225, 226, 227 and 228 quoted in the report).

55. With regard to activities for the prevention of torture and in particular medical control, she indicated that prisoners underwent medical examinations on admission to a detention centre or prison establishment, upon transfer from one place of detention to another and upon release. Those checks were carried out daily in provisional detention centres and once a week in prison establishments, and otherwise also on request. Medical examinations were also practised regularly on detainees in solitary confinement or subjected to measures of constraint. Depending on the results of such examinations, solitary confinement in cells could be temporarily interrupted or terminated completely. Some 60 to 70 per cent of doctors working in provisional detention centres or prison establishments were especially trained for their tasks.

56. Regular checks of the legality of the application of the laws and of conditions of detention were carried out by the competent authorities in the police custody and provisional detention centres as well as in the prison establishments - in the former case by the police officer on duty and in the latter case by the director of the establishment. The Public Prosecutor also inspected detention centres every week and prison establishments every month; he also carried out such inspections at any time on request. He could thus hear the detainees and convicted prisoners and, in the event of any complaint of ill-treatment or torture, the victim was immediately transferred to another detention centre or prison establishment to protect him against possible reprisals.

57. In reply to a question concerning the validity of confessions obtained under duress, she said that such confessions could not be invoked as evidence except in the prosecution of a person on a charge of having committed an act

of torture. Furthermore, she specified that the term "duress" meant any means used against an accused or convicted person, such as the stopping of correspondence or of visits, in order to extract a confession.

58. With regard to the duration of detention, she said that, in accordance with the new provisions adopted in October 1989, police custody could not exceed 72 hours and provisional detention 5 days. Moreover, the suspect had to be informed of his right to refuse to make any declaration otherwise than in the presence of his lawyer, who was entitled to attend all interrogations. The court could order provisional detention for a period of one month, which could be extended twice for a maximum of two months. The decision to extend detention beyond that period could only be taken by the Supreme Court. Throughout the period of provisional or preventive detention, the suspect was free to communicate with the members of his family. The family had to be informed of his detention within 24 hours.

59. With regard to the various penalties and punishments laid down in the Penal Code of Hungary, she indicated in the first place, that capital punishment was applicable in time of war to persons convicted of collaboration with the enemy, violence against civilians, violations of the laws and customs of war and genocide. In time of peace, it could be applied in cases of homicide if the crime was premeditated, if it was committed for purposes of gain or for other sordid reasons, if it was committed with special cruelty, if the victim was an official acting in the performance of his duties, if there were several victims or if the culprit was a repeat offender. The death penalty, however, was being imposed and applied less and less frequently. Thus, whereas in 1987 five persons had been sentenced to death and executed, in 1989 only one person had been sentenced but had not been executed. The maximum term of imprisonment, i.e. the penalty of rigorous imprisonment for life was 25 years. As for the maximum duration of solitary confinement in cells, which was the severest form of penalty, it was 10 days in provisional detention centres, 20 days in a prison and 30 days in a penitentiary.

60. Measures of constraint, six in number, were currently determined by ministerial decree, but the conditions of their application should be more clearly defined by a new law on public order and security to be promulgated in 1990. Those measures could not be applied to pregnant women, to minors or to persons who were gravely ill or physically handicapped. There were currently three pre-conditions for their application: the issue of a warning to the person concerned, the observance of the principle of proportionality of the measure of constraint with the act committed and the legality of its application, which was controlled by the Public Prosecutor and the doctors. The use of weapons was subject to the same conditions.

61. The penalties incurred by the perpetrators of acts of torture varied according to the particular offence committed. In the first place, in the case of offences against persons (attacks against life and health, bodily injury), the penalty varied from 5 to 25 years' imprisonment (life imprisonment) in the event of homicide; in the case of bodily injury, the penalty was one year's imprisonment if the previous state of health could be restored in less than eight days and three to eight years if recovery took more than eight days. In the second place, with regard to abuse of authority, the maximum penalty was three years and for physical abuse a maximum of two years. Questioning under duress could involve a penalty of five years and illegal detention or arrest, when accompanied by torture, could carry a

penalty of five years' imprisonment. Lastly, the perpetrator of acts of torture incurred the death penalty if he had committed homicide. In the particular case of the crime of torture of a political character, the court took into consideration not only the provisions relating to offences against persons already mentioned but also the provisions which appeared at the beginning of the Hungarian Penal Code under the title of "Offences against the State".

62. With regard to the right to compensation and rehabilitation of torture victims (article 14), she explained that those persons could obtain medical treatment either in the hospitals of the prison establishments, which were equipped for that purpose and in which specialized doctors were in attendance, or in other hospitals. That treatment was free of charge.

63. Applications for compensation could be submitted at any moment by the victims, whether suspects or convicted persons. As for persons, particularly convicts suffering from personality disturbances, they were transferred to a special institution where their protection was assured and, since it could be feared that they would be frightened to lodge a complaint for torture, the staff entrusted with their care had to pay particular attention to their activities and report any evidence of possible cases of torture or cruel, inhuman or degrading treatment.

64. In the course of the inquiry or investigation, and also during the controls carried out in places of detention and prison establishments, the Prosecutor has from the outset the duty to inform a suspect of his right to lodge a complaint against any ill-treatment which might have been inflicted upon him by the law enforcement officers or authorities entrusted with the inquiry or the investigation. As soon as a convicted person arrived at a prison establishment, he was again informed of that right and a notice was posted to that effect on the door of the cells for the information of detainees. Moreover, warders in the prisons were under an obligation to report any incident concerning the detainees, in particular acts of torture or ill-treatment, and the same was true of the educational staff, who had the closest contacts with convicted prisoners. Other detainees could also lodge complaints on behalf of torture victims.

65. Complaints of torture were submitted to the director of the prison establishment or to the person responsible for the place of detention. They could also be submitted to the prosecutor in charge of supervising the application of penalties, or to any other prosecutor. In the last resort - and a provision to that effect would appear in the legislative decree to be promulgated in 1990 - the victim could submit a complaint to the Parliamentary Ombudsman.

66. The impartiality of the investigation was ensured by a constitutional amendment which served to strengthen the independence of the Prosecutor and of the court. Where a crime of torture occurred, liability attached to the perpetrator; if, however, the prepetrator was a public official, the State as the employer was liable for the compensation or reparation. At present, in Hungary, in order to obtain redress for an injury sustained, civil proceedings had to be instituted, which could involve complications. As from 1990, however, administrative redress would be available and it would be possible for complaints to be entered before the administrative tribunals.

67. Turning to the question of universal jurisdiction, referred to in article 5 of the Convention, she confirmed that Hungary had established its jurisdiction in the three cases set forth in paragraph 1, i.e. when the offence had been committed on Hungarian territory, when the alleged offender was a Hungarian national (jurisdiction established under the Convention and under the relevant provisions of the Penal Code) and, lastly, when the victim was a Hungarian national, in which case Hungary could request the other State to extradite the offender. In the case envisaged in paragraph 2 of article 5 of the Convention, Hungary could institute proceedings against a national of another State who had committed an act of torture, either on the basis of the Convention against Torture or on that of its national legislation, which did not exclude the possibility for Hungary to establish its competence in such cases.

68. Regarding articles 6 and 7 of the Convention, she specified that any person suspected of having committed an offence mentioned in the Convention who was a national of another State was subject to the same treatment and the same procedure as a Hungarian national, without any discrimination.

69. With regard to non-extradition, non-refoulement and non-expulsion of persons to countries where they would be in danger of being subjected to torture (article 3 of the Convention), Hungary was bound by two obligations, one deriving from the Convention relating to the Status of Refugees and one arising from the Convention against Torture. With regard to extradition, Hungarian legislation authorized it only on the basis of an international treaty or, in the absence of a treaty, on a basis of reciprocity (CAT/C/5/Add.9, paras. 12 and 24). Since 1896, the Minister of Justice had been responsible for deciding on matters of extradition. In taking his decision, the Minister of Justice applied the provisions of the Convention against Torture.

70. Expulsion could be ordered on the basis either of a judicial decision or of a decision by the police authorities. That second possibility was currently under review and the experts of the Ministry of Justice had informed the Hungarian delegation that it would be eliminated and that in future aliens could not be expelled from Hungary otherwise than by a court decision, which would take into consideration the provisions of the Convention against Torture, as an integral part of the Hungarian legal system. Certain problems remained because of bilateral agreements on the expulsion of aliens concluded between Hungary and other States in the 1960s and 1970s which conflicted with the international obligations contracted by Hungary under the International Covenant on Civil and Political Rights and the Convention against Torture. Those difficulties had led Hungary to review those bilateral agreements in order to adapt them to its international commitments.

71. With regard to mutual judicial assistance (article 9 of the Convention) Hungary had concluded agreements with the same countries with which it had signed extradition treaties (CAT/C/5/Add.9, para. 25). In that regard, paragraph 2 of article 9 of the Convention applied where a mutual judicial assistance treaty existed. In the absence of a treaty, Hungary acted on the basis of the Convention.

72. It should be pointed out that Hungary's position with regard to terrorist acts was evolving. Since four or five years previously, those acts had been considered as offences against penal law and, as such, could justify

extradition. Nevertheless, there was an exception to that rule in cases where there were substantial grounds for believing that the person concerned would be in danger of being subjected to torture in the requesting country.

73. Mr. GYURIS (Hungary), replying to Ms. Diaz Palacios, said that the measures taken to permit claims by the victims of the crimes committed in what was termed "the period of the 50s" were still partial, but Hungary was contemplating granting compensation to all the persons affected by those crimes. The first measure taken had been Act No. 36 of 1989 which made provision for remedies and compensation in respect of sentences handed down in connection with the people's insurrection of 1956. In accorance with that Act, all offences committed in the framework of that struggle and other acts of violence against persons were effaced. It followed that any person who considered that he had been a victim of that situation could have a legal, financial and moral remedy and members of the family could apply for that remedy in the name of persons who were not in a position to do so themselves.

74. As for injury sustained in the form of loss of social security rights, the Act acknowledged that the restrictions which had been imposed during that period had been politically motivated and that a reappraisal of the 1956 events had shown that those restrictions were baseless and had to be completely removed. Those measures, however, constituted only a partial solution to the problem because they did not extend to all the persons who had suffered during that period. According to the data currently available, they numbered 1 million if one included the persons interned in the only camp which had existed in Hungary in the 1950s but which had been a severe régime camp. The persons who had been held in that camp, estimated at 10,000, could request their rehabilitation. The Council of Ministers of the Republic of Hungary had enacted a legislative decree bringing to an end the discrimination to which those persons were being subjected with regard to social security benefits and had decided to grant new pensions which could be 2 1/2 times greater than the average pension paid in Hungary. Parliament had also enacted two decrees concerning persons who had been sentenced, interned or illegally deported in Hungary, in which it apologized to the victims and undertook to institute in the near future all necessary safeguards and remedies capable of preventing a recurrence of such crimes.

75. The CHAIRMAN, noting that the members of the Committee had no further questions or comments, said that although there were some gaps in the initial report of Hungary, those gaps had been adequately filled by the statement of the Hungarian delegation and the replies given to the questions put by the members of the Committee. It could be considered that Hungary was already meeting the requirements of the Convention both in law and in practice. Nevertheless, the process of democratization and humanization of judicial procedures was still under way and the situation could be expected to improve still further in future, a fact which the Committee welcomed. On behalf of the members of the Committee, he addressed his best wishes to the Republic of Hungary for the happy evolution of the process under way, thanked the members of the Hungarian delegation and declared that the Committee had completed its consideration of the initial report of Hungary.

76. Mrs. Hargitai and Mr. Gyuris (Hungary) withdrew.

The meeting rose at 5.55 p.m.